

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

PAMELA STELLA, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

LVMH PERFUMES AND COSMETICS
USA, INC., a New York corporation,

Defendant.

No. 07-CV-6509

Hon. Elaine E. Bucklo
Magistrate Judge Arlander Keys

**DEFENDANT LVMH PERFUMES AND COSMETICS, INC.'S
MOTION FOR LEAVE TO FILE MEMORANDUM OF LAW
IN EXCESS OF 15 PAGES IN SUPPORT OF ITS MOTION TO DISMISS**

Defendant LVMH Perfumes and Cosmetics, Inc. ("LVMH") hereby moves the Court for an order granting it leave to file, *instanter*, a memorandum of law in support of its Motion to Dismiss in excess of 15 pages. A copy of LVMH's proposed memorandum of law is attached hereto as Ex. 1. In support of this Motion, LVMH states as follows:

1. Plaintiff has brought nationwide putative class action lawsuit against LVMH, alleging that LVMH has violated a host of state and federal laws by allegedly manufacturing, marketing, and/or selling a lipstick product containing undisclosed trace levels of lead. Against this backdrop, plaintiff purports to assert claims against LVMH for violation of the Illinois Consumer Fraud Act and all similar consumer fraud statutes of other states (Count I), breach of implied warranty under the Illinois Uniform Commercial Code (Count II), breach of implied warranty under the federal Magnuson Moss Act (Count III), strict liability (Count IV), negligence *per se* (Count V), unjust enrichment (Count VI), and injunctive relief (Count VII).

2. The seven-count complaint is seventeen (17) pages long and includes ninety (90) numbered paragraphs.

3. Plaintiff's seeks extensive relief on behalf of herself and the putative class:
 - (a) Certification of a nationwide class under Fed.R.Civ.P. 23(b)(1), (2), and (3);
 - (b) Damages in the amount of all monies paid for the lipsticks at issue;
 - (c) Damages in the amount of monies paid or to be paid for medical testing for lead poisoning;
 - (d) Actual damages, statutory damages, punitive or treble damages, and such other relief as provided by the statutes cited in the complaint;
 - (e) Pre-judgment and post-judgment interest;
 - (f) Injunctive relief enjoining LVMH from distributing, selling, and/or manufacturing so-called "adulterated" cosmetics;
 - (g) Plaintiff's attorney's fees and costs; and
 - (h) All other relief to which plaintiff and the putative class may be entitled.

4. LVMH's motion to dismiss, filed contemporaneously herewith, is directed toward the entire complaint. Given the sheer number of claims asserted in the complaint, LVMH's legal defenses to those claim, and the nature and extent of the relief sought, LVMH's counsel have not been able to keep the length of the memorandum in support of their motion to dismiss within 15 pages, despite their best efforts.

5. LVMH's proposed memorandum of law is 26 pages long, not including the signature block that carries over onto page 27.

6. Finally, LVMH submits that plaintiff will not be prejudiced by the filing of an over-length brief, because plaintiff will have an opportunity to fully respond to LVMH's motion to dismiss and supporting memorandum in the form of a response memorandum and can, if necessary, seek leave of the Court to file a brief of her own in excess of 15 pages.

WHEREFORE, Defendant LVMH Perfumes and Cosmetics, Inc. respectfully requests that the Court grant it leave to file the accompanying 27-page memorandum of law in support of its motion to dismiss, *instanter*.

Date: March 14, 2008

Respectfully submitted,

LVMH PERFUMES AND COSMETICS, INC.

By: s/ Robert E. Shapiro

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